

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1666

IN THE MATTER OF:

Served April 5, 1977

Application of SUBURBAN TRANSIT )  
COMPANY for Certificate of Public )  
Convenience and Necessity to )  
Perform Charter Operations )

Application No. 907

Application of SUBURBAN TRANSIT )  
COMPANY for Certificate of Public )  
Convenience and Necessity to )  
Perform Special Operations - )  
Shady Grove )

Application No. 927

Consolidated Docket No. 331

By Application No. 907, filed January 26, 1976, as amended, Suburban Transit Company (Suburban) seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport passengers, limited to pre-formed groups participating in events scheduled to be held at the Capital Centre, Landover, Md., over irregular routes, in charter operations, between points within the Metropolitan District. By Application No. 927, filed March 22, 1976, as supplemented, Suburban seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport passengers, over irregular routes, in special operations, from points within the Metropolitan District to Shady Grove Music Fair, Gaithersburg, Md., and return. 1/

Suburban currently holds Certificate of Public Convenience and Necessity No. 29, which authorizes the transportation of passengers, in special operations, over irregular routes from Gaithersburg, Rockville and Wheaton, Md., Reston, Tyson's Corner and Springfield, Va., and points in Washington, D. C., located at junction 16th and Kennedy Streets, N. W., and junction 4th Street and Michigan Avenue, N. W., to the Capital Centre, Landover, Md., and return. Applicant's proposed operations and rates are fully described in Order No. 1569, served June 21, 1976, and incorporated by reference herein.

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1/ At the hearing, applicant sought leave to withdraw Application No. 927 inasmuch as it was not in a position to demonstrate any support for service from and to Shady Grove. In view of this representation, Application No. 927 will be dismissed.

Order No. 1569, required Suburban to file the following documents with the Commission and serve one copy thereof on each party of record on or before July 14, 1976:

- (A) A detailed balance sheet of Suburban as of April 30, 1976.
- (B) A detailed income statement of Suburban for the four-month period ended April 30, 1976.
- (C) Separate statements projecting revenues and revenue deductions, including taxes for a one-year period, together with supporting details, including the ratio between revenue deductions and revenues for the proposed charter operations and the proposed special operations.

These documents were not timely filed. At approximately 9:30 A. M. on Wednesday, July 21, 1976, the day of the hearing, Suburban tendered three one-page documents entitled (1) "Balance Sheet January 1, 1976 Thru April 30, 1976 Suburban Transit Co.," (2) "Income Statement January 1, 1976 Thru April 30, 1976 Suburban Transit Co.," and (3) "Suburban Transit Projected Income Statement Capital Centre Opposing Teams Account." Suburban's documents were accepted for filing without prejudice to later determination by the Commission of whether Suburban's failure to file in a timely and proper fashion pursuant to Order No. 1569 may warrant dismissal or denial of its applications.

At the hearing Suburban's president, Posie James Preston, testified that he had not yet received a certificate of publication of the notice of the hearing from the Washington Star. Accordingly, the presiding officer instructed Mr. Preston to provide the Commission with a copy of the certificate of publication as soon as possible. To date, Suburban has not presented said certificate. Mr. Preston also testified that although the notice of the hearing was to be published pursuant to Order No. 1569 no later than Wednesday, June 30, 1976, Suburban did not have the notice published until July 14, 1976.

Suburban's balance sheet reflects total assets of \$17,377.79, including \$3,877.79 in cash, a bus valued at \$10,000.00, an auto valued at \$1,900.00 and a motorcycle valued at \$1,600.00. The balance sheet further shows \$17,005.86 in long term notes as the sole liability of Suburban Transit Company. Suburban places its equity at \$371.91.

Suburban's income statement for the period January 1, 1976 through April 30, 1976, reflects a gross income of \$14,175.43. After operating expenses of \$3,603.40 are deducted, Suburban shows a net earning before taxes of \$10,572.03. A similar income statement for the period January 1, 1976, through June 30, 1976, indicates gross income of \$18,608.03, operating expenses of \$6,107.02 and net earnings of \$12,501.01.

Suburban's projected income statement anticipates gross receipts of \$37,500 from the proposed Capital Centre operation, although applicant admits that a more realistic projection would anticipate gross earnings of \$23,000. Anticipated expenses, exclusive of income tax, are \$19,138. Suburban's witness was generally unable to explain these financial exhibits.

Suburban's president further testified that he had four operational buses. The Commission takes official notice of Suburban's Certificate No. 29 and the temporary authority granted pursuant to Order No. 1643, and notes that at least three, if not all, of Suburban's buses are required to perform the operations authorized therein.

Applicant does not have an exclusive contract with Capital Centre to provide the service proposed herein. Rather, Capital Centre has agreed merely to promote Suburban's efforts to obtain such business. No evidence was offered indicating that any present or future participants in Capital Centre events have solicited applicant's services.

#### FINDINGS AND CONCLUSIONS

The findings to be made by the Commission, after hearing, with respect to an application for a certificate of public convenience and necessity are set forth in Title II, Article XII, Section 4(b) of the Compact. Essentially, the Commission must make two separate findings. First, the applicant must be "fit, willing and able" to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations, and requirements of the Commission thereunder. Second, the proposed transportation " . . . must be or will be required . . ." by the public convenience and necessity.

The Commission initially finds that the applicant is not fit, willing and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder. Applicant failed to comply with Commission Order No. 1569. It failed to publish properly the notice of hearing. It failed timely to present the documents required by Order No. 1569. It failed to offer competent witnesses at the hearing in support of those documents it did file on the day of the hearing. Applicant, furthermore, has not shown that it has the capacity either financially or operationally to render the proposed service. Accordingly, applicant is not "fit, willing and able".

The Commission also finds that the evidence of record fails to establish that the proposed transportation is or will be required by the public convenience and necessity. There has been no showing that

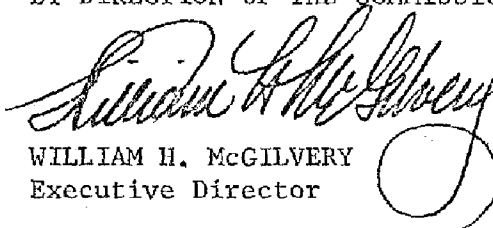
any hockey team, basketball club, or other group of performers will utilize applicant's service. Moreover, applicant's vehicles are committed to conducting operations under its existing authority and would not appear to be available for the operations proposed herein.

THEREFORE, IT IS ORDERED:

1. That Application No. 907 of Suburban Transit Company be, and it is hereby; denied.

2. That Application No. 927 of Suburban Transit Company be, and it is hereby, dismissed.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director